

NONREIMBURSABLE SPACE ACT AGREEMENT
BETWEEN
THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
AND DISCOVERY EDUCATION, INC.
FOR K-12 STEM ENGAGEMENT AND EDUCATION

ARTICLE 1. AUTHORITY AND PARTIES

In accordance with the National Aeronautics and Space Act (51 U.S.C. § 20113(e)), this Agreement is entered into by the National Aeronautics and Space Administration, located at 300 E Street SW, Washington, DC 20546 (hereinafter referred to as "NASA") and Discovery Education, Inc. located at 4305 Congress Street, Suite 700, Charlotte, NC 28209-4865 (hereinafter referred to as "Partner" or "DE"). NASA and Partner may be individually referred to as a "Party" and collectively referred to as the "Parties."

ARTICLE 2. PURPOSE

The purpose of this Agreement is to enable collaboration between NASA and Discovery Education (www.discoveryeducation.com) to support Discovery Education in its development of a space channel on the Discovery Education platform. Discovery Education is a paid subscription platform that provides curated K-12 digital content for educators and students to prepare students for future success by connecting them to the world outside the classroom. Discovery Education is home to high-quality digital textbooks, multimedia content, lesson plans, learning activities, and the Discovery Education Network (DEN), an extensive professional development community that connects educators to teaching resources, learning opportunities, and professional networking. NASA and Discovery Education wish to collaborate to ensure the space channel highlights NASA technologies, current mission priorities, launches, milestones, anniversaries, NASA STEM careers and STEM professionals and provides easy access to NASA's most up-to-date resources, including lesson plans, student learning activities, and multimedia resources, among others.

Discovery Education curates resources into manageable collections, categorized by grade level, providing educators with easy access to relevant and up-to-date resources. The curation of resources into collections and channels is a time-saving feature valued by teachers. With representation in 90 countries, Discovery Education reaches 51 million students and 5 million educators worldwide. Discovery Education will make a portion of the space channel resources freely and publicly available through a landing page from the Discovery Education home page: www.discoveryeducation.com.

ARTICLE 3. RESPONSIBILITIES

A. NASA will use reasonable efforts to:

1. Work with Discovery Education to identify and provide publicly available information, imagery, multimedia resources and STEM education materials and resources highlighting NASA technology, mission priorities, launches, milestones, and anniversaries, among others.

2. Facilitate periodic informational exchanges between NASA and Discovery Education to ensure Discovery Education remains up-to-date on NASA mission priorities and content.
3. Collaborate with Discovery Education to highlight NASA STEM careers and showcase NASA scientists and engineers from diverse backgrounds.
4. Facilitate opportunities for Partner to interview and film NASA scientists and engineers highlighting their professional work and STEM journeys. Any onsite filming must comply with NASA's multimedia and advertising guidelines:
<https://www.nasa.gov/multimedia/guidelines/index.html>.
5. Review final designs for technical accuracy and accurate treatment of NASA content for any collections, lessons or other materials or resources created by Discovery Education at a point when changes can still be made in order to facilitate accuracy and fidelity to NASA missions and content, and to ensure compliance with this Agreement.

B. Discovery Education will use reasonable efforts to:

1. Design and develop NASA-themed collection highlighting current NASA technology, mission priorities, launches, milestones, and anniversaries, among others on the Discovery Education platform.
2. Participate in periodic informational exchanges with NASA to ensure Discovery Education remains up-to-date on NASA mission priorities and content.
3. As appropriate, highlight NASA STEM careers and NASA STEM professionals from diverse backgrounds within the space channel.
4. Coordinate with NASA on proposals to interview and film NASA scientists and engineers highlighting their professional work and STEM journeys. Any onsite filming must comply with NASA's Media Usage Guidelines, <https://www.nasa.gov/multimedia/guidelines/index.html>.
5. Make a portion of the NASA collection publicly available and free-of-charge on a landing page via the Discovery Education website: www.discoveryeducation.com. Specifically, make a portion of resources in the space channel related to major NASA events, for example, Mars 2020 landing, Commercial Crew launches, Artemis, and/or James Webb Space Telescope, among others, publicly and freely available.
6. Provide metrics and data to NASA for use in internal NASA analytics describing the reach and engagement of NASA resources and NASA-themed special events.

ARTICLE 4. SCHEDULE AND MILESTONES

The planned major milestones for the activities defined in the "Responsibilities" Article are as follows:

Initial informational exchange meeting between NASA and Partner.	Within four weeks of signature.
Partner will provide NASA with timeline of development of a space channel.	Within 8 weeks of signature.
Status and periodic informational exchange meetings.	As agreed upon by NASA and Partner.
Space channel and publicly available landing site goes live.	As agreed upon by NASA and Partner.
Partner provides NASA with metrics on resource usage.	Initially as agreed upon by NASA and Partner and annually thereafter.

ARTICLE 5. FINANCIAL OBLIGATIONS

There will be no transfer of funds between the Parties under this Agreement and each Party will fund its own participation. All activities under or pursuant to this Agreement are subject to the availability of funds, and no provision of this Agreement shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, (31 U.S.C. § 1341).

ARTICLE 6. PRIORITY OF USE

Any schedule or milestone in this Agreement is estimated based upon the Parties' current understanding of the projected availability of NASA goods, services, facilities, or equipment. In the event that NASA's projected availability changes, Partner shall be given reasonable notice of that change, so that the schedule and milestones may be adjusted accordingly. The Parties agree that NASA's use of the goods, services, facilities, or equipment shall have priority over the use planned in this Agreement. Should a conflict arise, NASA in its sole discretion shall determine whether to exercise that priority. Likewise, should a conflict arise as between two or more non-NASA Partners, NASA, in its sole discretion, shall determine the priority as between those Partners. This Agreement does not obligate NASA to seek alternative government property or services under the jurisdiction of NASA at other locations.

ARTICLE 7. NONEXCLUSIVITY

This Agreement is not exclusive; accordingly, NASA may enter into similar agreements for the same or similar purpose with other private or public entities.

ARTICLE 8. LIABILITY AND RISK OF LOSS

A. Each Party hereby waives any claim against the other Party, employees of the other Party, the other Party's Related Entities (including but not limited to contractors and subcontractors at any tier, grantees, investigators, customers, users, and their contractors or subcontractor at any tier), or employees of the other Party's Related Entities for any injury to, or death of, the waiving Party's employees or the employees of its Related Entities, or for damage to, or loss of, the waiving Party's property or the property of its Related Entities arising from or related to activities conducted under this Agreement, whether such injury, death, damage, or loss arises through negligence or otherwise, except in the case of willful misconduct.

B. Each Party further agrees to extend this cross-waiver to its Related Entities by requiring them, by contract or otherwise, to waive all claims against the other Party, Related Entities of the other Party, and employees of the other Party or of its Related Entities for injury, death, damage, or loss arising from or related to activities conducted under this Agreement. Additionally, each Party shall require that their Related Entities extend this cross-waiver to their Related Entities by requiring them, by contract or otherwise, to waive all claims against the other Party, Related Entities of the other Party, and employees of the other Party or of its Related Entities for injury, death, damage, or loss arising from or related to activities conducted under this Agreement.

ARTICLE 9. LIABILITY AND RISK OF LOSS - PRODUCT LIABILITY

With respect to products or processes resulting from a Party's participation in an SAA, each Party that markets, distributes, or otherwise provides such product, or a product designed or produced by such a process, directly to the public will be solely responsible for the safety of the product or process.

ARTICLE 10. INTELLECTUAL PROPERTY RIGHTS - DATA RIGHTS

Information and data exchanged under this Agreement is exchanged without restrictions unless required by national security regulations (e.g., classified information) or as otherwise provided in this Agreement or agreed to by the Parties for specifically identified information or data (e.g., information or data specifically marked with a restrictive notice).

ARTICLE 11. INTELLECTUAL PROPERTY RIGHTS – INVENTION AND PATENT RIGHTS

A. "Related Entity" as used in this Invention and Patent Rights Article means a contractor, subcontractor, grantee, or other entity having a legal relationship with NASA or Partner assigned, tasked, or contracted with to perform activities under this Agreement.

B. The invention and patent rights herein apply to employees and Related Entities of Partner. Partner shall ensure that its employees and Related Entity employees know about and are bound by the obligations under this Article.

C. NASA has determined that 51 U.S.C. § 20135(b) does not apply to this Agreement. Therefore, title to inventions made (conceived or first actually reduced to practice) under this Agreement remain with the respective inventing party(ies). No invention or patent rights are exchanged or granted under this Agreement. NASA and Partner will use reasonable efforts to report inventions made jointly by their employees (including employees of their Related Entities). The Parties will consult and agree on the responsibilities and actions to establish and maintain patent protection for joint invention, and on the terms and conditions of any license or other rights exchanged or granted between them.

ARTICLE 12. USE OF NASA NAME AND NASA EMBLEMS

A. NASA Name and Initials

Partner shall not use "National Aeronautics and Space Administration" or "NASA" in a way that creates the impression that a product or service has the authorization, support, sponsorship, or endorsement of NASA, which does not, in fact, exist. Except for releases under the "Release of General Information to the Public and Media" Article, Partner must submit any proposed public use of the NASA name or initials (including press releases and all promotional and advertising use) to the NASA Associate Administrator for the Office of Communications or designee ("NASA Communications") for review and approval. Approval by NASA Office of Communications shall be based on applicable law and policy governing the use of the NASA name and initials.

B. NASA Emblems

Use of NASA emblems (i.e., NASA Seal, NASA Insignia, NASA logotype, NASA Program Identifiers, and the NASA Flag) is governed by 14 C.F.R. Part 1221. Partner must submit any proposed use of the emblems to NASA Communications for review and approval.

ARTICLE 13. RELEASE OF GENERAL INFORMATION TO THE PUBLIC AND MEDIA

NASA or Partner may, consistent with Federal law and this Agreement, release general information regarding its own participation in this Agreement as desired.

Pursuant to Section 841(d) of the NASA Transition Authorization Act of 2017, Public Law 115-10 (the "NTAA"), NASA is obligated to publicly disclose copies of all agreements conducted pursuant to NASA's 51 U.S.C. §20113(e) authority in a searchable format on the NASA website within 60 days after the agreement is signed by the Parties. The Parties acknowledge that a copy of this Agreement will be disclosed, without redactions, in accordance with the NTAA.

ARTICLE 14. DISCLAIMER OF WARRANTY

Goods, services, facilities, or equipment provided by NASA under this Agreement are provided "as is." NASA makes no express or implied warranty as to the condition of any such goods, services, facilities, or equipment, or as to the condition of any research or information generated under this Agreement, or as to any products made or developed under or as a result of this Agreement including as a result of the use of information generated hereunder, or as to the merchantability or fitness for a particular purpose of such research, information, or resulting product, or that the goods, services, facilities or equipment provided will accomplish the intended results or are safe for any purpose including the intended purpose, or that any of the above will not interfere with privately-owned rights of others. Neither the government nor its contractors shall be liable for special, consequential or incidental damages attributed to such equipment, facilities, technical information, or services provided under this Agreement or such research, information, or resulting products made or developed under or as a result of this Agreement.

ARTICLE 15. DISCLAIMER OF ENDORSEMENT

NASA does not endorse or sponsor any commercial product, service, or activity. NASA's participation in this Agreement or provision of goods, services, facilities or equipment under this Agreement does not constitute endorsement by NASA. Partner agrees that nothing in this Agreement will be construed to imply that NASA authorizes, supports, endorses, or sponsors any product or service of Partner resulting from activities conducted under this Agreement, regardless of the fact that such product or service may employ NASA-developed technology.

ARTICLE 16. COMPLIANCE WITH LAWS AND REGULATIONS

A. The Parties shall comply with all applicable laws and regulations including, but not limited to, safety; security; export control; environmental; and suspension and debarment laws and regulations. Access by a Partner to NASA facilities or property, or to a NASA Information Technology (IT) system or application, is contingent upon compliance with NASA security and safety policies and guidelines including, but not limited to, standards on badging, credentials, and facility and IT system/application access.

B. With respect to any export control requirements:

1. The Parties will comply with all U.S. export control laws and regulations, including the International Traffic in Arms Regulations (ITAR), 22 C.F.R. Parts 120 through 130, and the Export Administration Regulations (EAR), 15 C.F.R. Parts 730 through 799, in performing work under this Agreement or any Annex to this Agreement. In the absence of available license exemptions or exceptions, the Partner shall be responsible for obtaining the appropriate licenses or other approvals, if required, for exports of hardware, technical data and software, or for the provision of technical assistance.

2. The Partner shall be responsible for obtaining export licenses, if required, before utilizing foreign persons in the performance of work under this Agreement or any Annex under this

Agreement, including instances where the work is to be performed on-site at NASA and where the foreign person will have access to export-controlled technical data or software.

3. The Partner will be responsible for all regulatory record-keeping requirements associated with the use of licenses and license exemptions or exceptions.

4. The Partner will be responsible for ensuring that the provisions of this Article apply to its Related Entities.

C. With respect to suspension and debarment requirements:

1. The Partner hereby certifies, to the best of its knowledge and belief, that it has complied, and shall comply, with 2 C.F.R. Part 180, Subpart C, as supplemented by 2 C.F.R. Part 1880, Subpart C.

2. The Partner shall include language and requirements equivalent to those set forth in subparagraph C.1., above, in any lower-tier covered transaction entered into under this Agreement.

ARTICLE 17. TERM OF AGREEMENT

This Agreement becomes effective upon the date of the last signature below ("Effective Date") and shall remain in effect until the completion of all obligations of both Parties hereto, or five years from the Effective Date, whichever comes first.

ARTICLE 18. RIGHT TO TERMINATE

Either Party may unilaterally terminate this Agreement by providing thirty (30) calendar days written notice to the other Party.

ARTICLE 19. CONTINUING OBLIGATIONS

The rights and obligations of the Parties that, by their nature, would continue beyond the expiration or termination of this Agreement, e.g., "Liability and Risk of Loss" and "Intellectual Property Rights"-related clauses shall survive such expiration or termination of this Agreement.

ARTICLE 20. POINTS OF CONTACT

The following personnel are designated as the Points of Contact between the Parties in the performance of this Agreement.

Management Points of Contact

NASA

Robert Lasalvia
Partnership Manager
300 E Street SW
Washington, DC 20546
Phone: 216.258.7879
Robert.f.lasalvia@nasa.gov

Discovery Education, Inc.

Michelle Satori
Manager, Content Relationships
4305 Congress Street
Suite 700
Charlotte, NC 28209-4865
Phone: 312.739.5543
MSatori@discoveryed.com

Technical Points of Contact

NASA

Diane Clayton
Senior Partnership Specialist
Mail Suite: Office of STEM Engagement
300 E Street SW
Washington, DC 20546
Phone: 202-358-1582
diane.clayton-1@nasa.gov

Discovery Education, Inc.

Michelle Satori
Manager, Content Relationships
4305 Congress Street
Suite 700
Charlotte, NC 28209-4865
Phone: 312.739.5543
MSatori@discoveryed.com

ARTICLE 21. DISPUTE RESOLUTION

Except as otherwise provided in the Article entitled "Priority of Use," the Article entitled "Intellectual Property Rights – Invention and Patent Rights" (for those activities governed by 37 C.F.R. Part 404), and those situations where a pre-existing statutory or regulatory system exists (e.g., under the Freedom of Information Act, 5 U.S.C. § 552), all disputes concerning questions of fact or law arising under this Agreement shall be referred by the claimant in writing to the appropriate person identified in this Agreement as the "Points of Contact." The persons identified as the "Points of Contact" for NASA and the Partner will consult and attempt to resolve all issues arising from the implementation of this Agreement. If they are unable to come to agreement on any issue, the dispute will be referred to the signatories to this Agreement, or their designees, for joint resolution. If the Parties remain unable to resolve the dispute, then the NASA signatory or that person's designee, as applicable, will issue a written decision that will be the final agency decision for the purpose of judicial review. Nothing in this Article limits or prevents either Party from pursuing any other right or remedy available by law upon the issuance of the final agency decision.

ARTICLE 22. MODIFICATIONS

Any modification to this Agreement shall be executed, in writing, and signed by an authorized representative of NASA and the Partner.

ARTICLE 23. ASSIGNMENT

Neither this Agreement nor any interest arising under it will be assigned by the Partner or NASA without the express written consent of the officials executing, or successors, or higher- level officials possessing original or delegated authority to execute this Agreement.

ARTICLE 24. APPLICABLE LAW

U.S. Federal law governs this Agreement for all purposes, including, but not limited to, determining the validity of the Agreement, the meaning of its provisions, and the rights, obligations and remedies of the Parties.

ARTICLE 25. INDEPENDENT RELATIONSHIP

This Agreement is not intended to constitute, create, give effect to or otherwise recognize a joint venture, partnership, or formal business organization, or agency agreement of any kind, and the rights and obligations of the Parties shall be only those expressly set forth herein.

ARTICLE 26. LOAN OF GOVERNMENT PROPERTY

The parties shall enter into a NASA Form 893, Loan of NASA Equipment, for NASA equipment loaned to Partner.

ARTICLE 27. SIGNATORY AUTHORITY

The signatories to this Agreement covenant and warrant that they have authority to execute this Agreement. By signing below, the undersigned agrees to the above terms and conditions.

NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION

DISCOVERY EDUCATION, INC.

BY: **MICHAEL KINCAID**
Michael Kincaid
Associate Administrator
Office of STEM Education

Digitally signed by
MICHAEL KINCAID
Date: 2020.11.02
16:43:29 -05'00'

BY: **Robin Porter**
Robin Porter
Vice President Digital Content

DocuSigned by:
7178310A7A564FB...

DATE: _____

DATE: November 10, 2020